

Docket No. 1833K US

**Response to Non-Final Office Action dated April 3rd, 2006****Overview**

5 Applicant amended independent claims 1, 16, 20, and 22.  
Claim 1 is amended to include dependent claim 6. Claims 16, 20  
and 22 are amended to claim a strap mounted between a foot  
contact layer and an outer layer of the foot sleeve body. The  
Applicant added new claims 24 to 26. The Applicant further  
10 amended claim 21 and cancelled claims 3 and 6 without prejudice.

The Applicant is referring to U.S. 2005/0187499 Al Gillis  
et al. by paragraph number when referring to the present  
invention. Cook '260 refers to U.S. Patent Number 5,354,260.  
15 Rutt '534 refers to U.S. Patent Number 6,952,534. The response  
refers directly to the Office Action response by paragraph  
number (i.e. paragraph 1).

**Response to Specification in the Detailed Action**

20 In response to paragraph one of the Office Action, please  
add the following serial numbers in paragraph [0032]. At line 7  
the serial number is 10/784,607 for the Compression Apparatus.  
At line 17 the serial is 10/784, 639 for the Fluid Conduit  
25 Connector Apparatus. At line 24 the serial number is 10/784,323  
for the Compression Treatment System.

**Response to 102(e) Rejection in view of Rutt '534 and 102(b)  
Rejection in view of Cook '260**

30 The Office Action rejected claims 1-23 under 35 U.S.C.  
section 102(e) as being anticipated by Rutt '534. The Office

Docket No. 1833K US

Action rejected claims 1-5, 7-9, 11-18, 20-23 under 35 U.S.C. section 102(b) as being anticipated by Cook '260.

In paragraphs 4 and 11 of the Office Action, claims 1-5 are currently rejected as being anticipated by Rutt '534 and Cook '260. The Applicant amended claim 1 to recite, in part, the strap having at least one segmented portion positioned along the strap. Neither Rutt '534 nor Cook '260 disclose or teach the segmented portion positioned along the heel strap 22 of the present invention. See FIG. 1 at element 24.

Next, referring to paragraph 5, the Rutt '534 strap 18 does not have a segmented portion. In fact, the Rutt '534 strap has an air cell for cushioning. The structure of the air cell does not show or teach the segmented portion of the present invention. The Rutt '534 air cell is described at col. 4 lines 31-40. The description and figures of Rutt '534 do not teach or disclose the segmented portions of the present invention. Furthermore Rutt '534 defines its segments 20 as strap portions at col. 3, line 62. Rutt '534 defines its 22 as a heel strap portion, at col. 4, line 31. Rutt '534 shows the strap portions extending outwardly from the main body and wrap around the ankle and over the arch of the foot, as does the strap 22 in the present invention, with the exception that the present invention clearly shows and claims at least one segment portion 24 positioned along the strap. The Rutt '534 elements 20 are addition straps for securing the foot sleeve. Furthermore, the Office Action at paragraph 8 defines the strap as "being configured for disposal about the foot adjacent an ankle (fig.1)".

Docket No. 1833K US

5 The Rutt '534 straps 20 are not segmented portions as claimed in the present invention. Also, see the Office Action at paragraph 8. The Office Action recites in part, "wherein the compression apparatus includes a plurality of strps 20 extending from the body (fig. 2)."

10 Support for the amended claim 1 is found at Applicant's paragraphs [0018], [0034], [0038], [0047], and in dependent claim 6. Rutt '534 and Cook '260 both do not disclose a strap with at least one segmented portion positioned along the strap. The Applicant's amended claim 1 is not anticipated. Anticipation is focused on the invention claimed. The Federal Court stated "anticipation requires disclosure in a single reference of each element of the claim under consideration." See W.L. Gore &  
15 Assocs. v. Garlock, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983).

20 Referring to paragraph 11, also, in Cook '260 their element 32 is defined as a strap formation. See Cook '260 at col. 3, lines 50-57; see Figures 1-6. There is no segmented portion, as disclosed in the present invention, shown in any Cook '260 figure or described in the Cook '260 patent.

25 Without all of the elements as claimed in the Applicant's invention, the patent office has not established its prima facie case of anticipation and the Applicant is entitled to his invention without more. See In Re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir.1992).

30 The Applicant respectfully requests allowance of the amended independent claim 1 and the remaining dependent claims 2

Docket No. 1833K US

through 15 depending therefrom based on an allowable independent claim 1.

5 In paragraph 6, the Office Action rejected dependent claims 7-15 as being anticipated by Rutt '534. Applicant respectfully suggests that claims 7-15 are allowable as being dependent on an allowable amended claim 1.

10 In response to paragraph 7 and 13, the Applicant amended independent claim 16. Amended claim 16 recites in part, a strap mounted between the foot contact layer and outer layer of the foot sleeve body. (emphasis added)

15 In response to paragraph 7 regarding Rutt '534, the present invention, as constructed in FIG. 1 along the dotted line and FIG. 1A, is a two-piece construction - a foot strap 24 and a foot sleeve 12. Rutt '534 teaches and discloses a strap 18 monolithically formed as part of the foot sleeve. See Rutt '534 at FIG. 2.

20 In response to paragraph 13, Cook '260 discloses and teaches a strap 32 monolithically formed with its foot sleeve. Cook '260 is a "one-piece construction". See Office Action at paragraph 13 and Cook '260 at col. 1, lines 55-59. See  
25 Lindemann Maschinenfabrik GmbH 730 F.2d 1452 (Fed. Cir. 1984) (the prior art reference must disclose each element of the claimed invention "arranged as in the claim.")

30 In response to paragraph 8, the Applicant respectfully suggests that amended claim 20 is allowable. Rutt '534 does not disclose in its figures or describe in its written specification, that its strap 22 is mounted between the outer

Docket No. 1833K US

layer and foot contact layer of the foot sleeve body, as in the present invention.

In response to paragraph 9, the Applicant respectfully  
5 disagrees that its strap member is disposed between the top and bottom layers of Rutt '534 at figures 2-4. Rutt '534 figures 2-4 do not show the two-piece construction of the present invention. Figure 2 shows a smooth construction from the strap 22 as part of the body 16, as a unitary structure. Rutt '534  
10 figures 3 and 4 show the construction of the air cells, not the strap portion. The Applicant's amended claim 22 is claiming a two piece construction with its strap 18 mounted or disposed between a foot contact layer and an outer layer of the foot sleeve body.

15  
To anticipate the cited reference must show each and every element as arranged in the claim. Amended claim 22 has the strap mounted between two layers. Rutt '534 strap member is part of the one-piece construction as shown in figure 2.  
20 Furthermore, Rutt '534 does not disclose, teach or show a two-piece construction as in FIG. 1A and claimed in the present invention.

In response to paragraph's 14 and 15, the Applicant  
25 respectfully disagrees that Cook '260 discloses or teaches a "portion of the strap member is disposed between the top and bottom layers of the expandable body (best seen in figs. 1, 3 and 5);". First, Cook '260 is a "one-piece construction". See Office Action at paragraph 13 and Cook '260 at col. 1, lines 55-  
30 59. Next, Cook '260 figs 1 and 3 are showing the one-piece construction. There is no disclosure in these figures or in the written specification, of the Cook '260 strapped mounted between

Docket No. 1833K US

the body contact layer and the outer layer as in the present invention. See Invention at FIG. 1A. Lastly, in Cook '260 Figure 5 is discussing the material construction of the bladder not of the strap connected to the body. See Cook '260 at col. 4, lines 1-26. Applicant respectfully suggests that amended independent claims 20 and 22 are allowable, and the dependent claims depending therefrom are also allowable.

In further response to paragraph 15, the Applicant amended claim 22. The Applicant avers amended claim 22 is allowable because Cook '260 teaches and discloses a "one-piece construction". See Cook '260 at col. 1, lines 55-59.

In response to paragraph 12, the Applicant respectfully avers claims 7-9 and claims 11-15 are allowable as being based on an allowable amended claim 1.

Applicant respectfully requests an Examiner interview, if the above amendments do not place this application in a condition of allowance. Applicant authorizes the Commissioner of Patents to charge deposit account 190254 for any late fees or charges necessary to avoid abandonment. I can be reached direct at (508) 261-8476 or [Edward.jarmolowicz@tycohealthcare.com](mailto:Edward.jarmolowicz@tycohealthcare.com).

Respectfully yours,



Edward S. Jarmolowicz, Reg. No. 47,238

Attorney for the Applicant  
Tyco Healthcare Group/Sherwood Services AG  
15 Hampshire Street  
Mansfield, Massachusetts 02048